



STATE OF NEW JERSEY

In the Matter of Richard Barber, Jr.,
Police Officer (S9999U), Willingboro

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-688

List Removal Appeal

ISSUED: SEPTEMBER 24, 2018 (SLK)

Richard Barber, Jr. appeals his removal from the eligible list for Police Officer (S9999U), Willingboro, on the basis of falsification of his pre-employment application.

By way of background, the appellant's name appeared on certification OL170405 that was issued to the appointing authority on April 4, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant's name, contending that he falsified his application.

Specifically, the appointing authority states that the appellant indicated on his application that he had received seven motor vehicle summonses. However, it submits his driver's abstract which shows that he received 24 motor vehicle summonses. The appointing authority also presents that the appellant indicated on his application that his driver's license was suspended in 2012 and 2009. However, his driver's abstract shows his license was also suspended in 2010 and 2011. Further, the appointing authority provides that although the appellant stated that he never registered for selective service, Selective Service Online Registration Search indicates that the appellant did register. Finally, it states that the appellant did not check on his application that he had been arrested for possession of drugs while its background check indicates he was.

On appeal, the appellant presents that he provided all the information that he received from the Motor Vehicle Commission (MVC) when he inquired over the phone.

He states that he informed the appointing authority that he could obtain his driver's abstract, but that it would take up to 10 days to receive it. However, he complains that the appointing authority would not grant him the time to retrieve this information. The appellant states he indicated the two driver's license suspensions that he could recall on his application. He presents that MVC informed on the phone that he had two other driver license suspensions, one for a "point system advisory order" and the other for "failing to comply with the IDRC Program that he was attending in August 2010." MVC advised him he would have to order a driver's abstract to receive the full details. The appellant emphasizes that he had no knowledge that he registered for selective service and, only after being informed by the appointing authority that he registered, he obtained a copy of his registration card from his father who had been keeping it in a secured place since 2007. The appellant explains that he did not check the box concerning being arrested for possession of drugs because he was not in possession of drugs. He emphasizes that there was another individual who was using them when the police showed up. This other individual admitted that he was the one using the drugs in court and all charges against the appellant were dismissed. The appellant reiterates that all answers that he provided were honest and to the best of his knowledge.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Civil Service Commission (Commission) to remove an eligible's name from an employment list when he or she has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In this matter, the appellant failed to list 17 motor vehicle violations, two driver's license suspensions, and his registration with selection service on his application. The appellant explains that he provided information to the best of his ability and complains that the appointing authority would not provide him the time to order a full driver's abstract. Additionally, in response to the question asking if he had ever been present when illegal drugs were used, he explained that he checked "No" even though he was arrested for drugs because he states that it was another person who was the actual user and the case against him was dismissed. Initially, it is noted that a candidate is responsible for the completeness and accuracy of their application. See *In the Matter of Harry Hunter* (MSB, decided December 1, 2004). Further, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on his falsification of his employment application and noted that the primary inquiry in such a case is whether the

candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. Therefore, even if there was no intent to deceive, in light of the appellant's driving record, his failure to disclose these additional summonses and suspensions was material. At minimum, the appointing authority needed this information to have a complete understanding of the appellant's background in order to properly evaluate his candidacy. *In the Matter of Dennis Feliciano, Jr.* (CSC, decided February 22, 2017). Specifically, the appointing authority needed this information in order to determine if the appellant's driving record showed a pattern of disregard for the law and questionable judgment. In this regard, the Commission notes that it has upheld the removal of law enforcement candidates in innumerable cases based on an unsatisfactory driving history. See *In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

Similarly, his failure to disclose his arrest for possession of drugs was material as the appointing authority needed his entire background to properly evaluate his candidacy. It is noted that the appellant has acknowledged that he was present when drugs were used. Moreover, the appointing authority's question afforded the appellant an opportunity to explain the situation so his explanation as to why he failed to disclose this information is not persuasive.

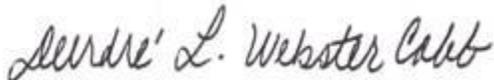
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Police Officer (S9999U), Willingboro eligible list.

ORDER

Therefore, it is ordered that this appeal be denied

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 20th DAY OF SEPTEMBER, 2018



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